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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

MANUEL O. VALLADARES,

Defendant and Appellant.

D044920

(Super. Ct. No. SCD174864)

APPEAL from a judgment of the Superior Court of San Diego County, Federico Castro, Judge. Affirmed.

Manuel O. Valladares entered a negotiated guilty plea to one count of poisoning or adulterating food, drink, or medicine (Pen. Code, § 347, subd. (a)(1)),¹ three counts of child abuse (§ 273a, subd. (a)), and four counts of lewd and lascivious conduct with a minor under 14 years of age (§ 288, subd. (a)). The court sentenced him to prison for a

¹ All statutory references are to the Penal Code.

stipulated 18 years: the eight-year upper term on one count of lewd and lascivious conduct (one-third the middle term), with consecutive two-year terms on the remaining three convictions of lewd and lascivious conduct, terms of one year four months on each of two convictions of child abuse (one-third the middle term), and one year four months for poisoning or adulterating food, drink, or medicine (one-third the middle term). It imposed a concurrent term on the remaining count of child abuse. The court denied a certificate of probable cause. (Cal. Rules of Court, rule 30(b).)

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues: (1) whether Valladares was advised of his constitutional rights and the consequences of entering the guilty plea and whether he waived the rights before entering the guilty plea; and (2) whether the record supports an argument Valladares was underage when arrested and whether he can raise this issue on appeal.²

We granted Valladares permission to file a brief on his own behalf. He has not responded. In his request for a certificate of probable cause, Valladares claimed to be

² Because Valladares entered a guilty plea, he cannot challenge the facts underlying the convictions. (§ 1237.5; *People v. Martin* (1973) 9 Cal.3d 687, 693.) We need not recite the facts.

under the age of 18 when arrested. If he was under the age of 18 when the crimes occurred, the trial court exceeded its jurisdiction in sentencing him to prison. (See *In re Harris* (1993) 5 Cal.4th 813, 840.) Aside from his claim in the request for a certificate of probable cause, the record does not support the claim he was under the age of 18. He did not claim he was a minor in the trial court and has provided no evidence supporting this claim. When reviewing an appeal we are limited to the record before us. (*People v. Jackson* (1964) 230 Cal.App.2d 485, 490; *People v. Roberts* (1963) 213 Cal.App.2d 387, 394.) If Valladares wishes to contest his guilty plea on the ground that the trial court exceeded its jurisdiction by sentencing him to prison when he was minor when he committed the crimes, he must do so by a petition for writ of habeas corpus filed in the trial court. (*In re Harris, supra*, 5 Cal.4th at pp. 835-841.)

A review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Valladares on this appeal.

DISPOSITION

The judgment is affirmed.

NARES, Acting P. J.

WE CONCUR:

HALLER, J.

IRION, J.